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Copperthite and others. Decree for plaintiffs, and defendant Copperthite appeals. Affirmed.

Moore, Barbour & Keith, for appellant.

Cecil Connor and *E. E. Garrett*, for appellees.

POTOMAC, F. & P. R. CO. *v.* CHICHESTER.

June 15, 1910.

[68 S. E. 404.]

1. Master and Servant (§§ 101, 102*)—Safety of Place of Work—Employer's Duty.—An employer must use ordinary care to provide a reasonably safe place of work for his employees, considering the character of the work, and is liable for injuries resulting from failure to use such care; but he may choose any reasonably safe method, being not required to adopt the newest and the best.

[Ed. Note.—For other cases, see Master and Servant, Dec. Dig. §§ 101, 102.* 9 Va.-W. Va. Enc. Dig. 669, et seq.; also, 14 Id. 689 et seq.]

2. Master and Servant (112*)—Railroads—Safety of Place of Work—Switches and Y's.—As affecting the safety of employees, the location of a railway siding or switch for freight purposes, as to its curves and grades, is ordinarily an engineering question, which the company is entitled to settle for itself.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 213-223; Dec. Dig. § 112.* 9 Va.-W. Va. Enc. Dig. 670; also, 14 Id. 686.]

3. Master and Servant (§ 112*)—Railroads—Safety of Place of Work—Y's.—As affecting a railway company's liability for the death of a brakeman, who was unable to stop a car he was handling on a Y by gravity, the Y was not negligently constructed, though the curves at one point were so sharp that locomotives could not run over it, and the grades were heavy, where the Y had been so maintained for 15 years without injury to any one.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 213-223; Dec. Dig. § 112.* 9 Va.-W. Va. Enc. Dig. 670; also, 14 Id. 686.]

4. Master and Servant (§§ 137, 217*)—Railroads—Constitutional and Statutory Provisions—Effect.—Const. 1902, § 162 (Code 1904, p. cclix), and Code 1904, § 1294k, providing that a railway employee's knowledge of defects in appliances shall not bar recovery for injury caused by them, does not prevent a railway company from adopting any reasonably safe methods in conducting its business or constructing its switches, nor do they change the rule that any risk due merely to the character of a switch is one of the risks of employment.

[Ed. Note.—For other cases, see Master and Servant, Dec. Dig. §§ 137, 217.* 9 Va.-W. Va. Enc. Dig. 680.]

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.

5. Master and Servant (§ 137*)—Railroads—Negligence—Handling Cars on Y.—A railway company was not negligent in handling its cars on a switch by gravity, where that method was reasonably safe, and had been used for many years without injury.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 269-278; Dec. Dig. § 137.* 9 Va.-W. Va. Enc. Dig. 677, et seq.]

6. Master and Servant (§ 286*)—Railroads—Death of Brakeman—Negligence—Jury Question.—In an action against a railway company for the death of a brakeman while moving a freight car by gravity, held, under the evidence, a jury question whether the car was dangerously overloaded.

[Ed. Note.—For other cases, see Master and Servant, Dec. Dig. § 286.* 9 Va.-W. Va. Enc. Dig. 726; also, 14 Id. 699.]

7. Witnesses (§ 94*)—Competency—Interest.—A witness' credibility, but not his competency, is affected by the fact that he has received more than his services are worth, and is to receive an additional sum on one of the parties succeeding.

[Ed. Note.—For other cases, see Witnesses, Cent. Dig. §§ 249-257; Dec. Dig. § 94.* 13 Va.-W. Va. Enc. Dig. 973, et seq.; also, 14 Id. 1101.]

8. Evidence (§ 539½*)—Expert Testimony—Admissibility.—In a personal injury case against a railway company, testimony of a witness that one link in a chain was longer than others was not incompetent because witness had little knowledge upon some matters to which he testified.

[Ed. Note.—For other cases, see Evidence, Cent. Dig. § 2350; Dec. Dig. § 539½.* 13 Va.-W. Va. Enc. Dig. 974; also, 14 Id. 1102.]

9. Trial (§ 96*)—Evidence—Motion to Strike.—Evidence will not be stricken on a general motion, where part of it is admissible.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 248; Dec. Dig. § 96.* 5 Va.-W. Va. Enc. Dig. 349; also, 14 Id. 414.]

Appeal from Circuit Court, Orange County.

Action by one Chichester, administrator, against the Potomac, Fredericksburg & Piedmont Railroad Company. From a judgment for plaintiff, defendant appeals. Reversed and remanded.

St. Geo. R. Fitzhugh, for plaintiff in error.

E. H. De Jarnett, Jr., for defendant in error.

JOHNSON v. WILLIAMS et al.

June 9, 1910.

[68 S. E. 410.]

1. Assignments for Benefit of Creditors (§ 275*)—Actions by Assignee—Necessary Parties.—In a suit by trustees for the benefit of creditors, in which neither the creditors nor an ostensible partner

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.